

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE: §
§
ALLIANCE FARM AND RANCH, LLC § **Bankruptcy Case No. 25-30155**
and §
ALLIANCE ENERGY PARTNERS, LLC §

DUSTIN ETTER'S EMERGENCY MOTION TO RESCHEDULE

Creditor and Interested Party Dustin Etter files this Emergency Motion to Reschedule the hearing on the applications to employ counsel for Debtor Alliance Farm & Ranch, LLC ("Alliance Farm"). The underlying motions are Doc 26 and Doc 31. It is requested that they be rescheduled for any time on 5/6, 5/7, 5/8, 5/9, 5/12, 5/13, 5/15, or 5/16 because:

- (a) the undersigned counsel is out of the country for a wedding on 5/27; and
- (b) it is necessary to resolve the issues related to the conflicts of counsel jointly representing Alliance Farm and AEP before those conflicts potentially irreparably harm AEP if AEP's interests are not adequately defended in connection with a state court proceeding which is scheduled for 5/23.

1. The applications to employ were originally set for a hearing on 5/1/2025. On the evening of Sunday, 4/27/2025, Tim Wentworth, counsel for Alliance Farm and AEP, emailed the undersigned counsel requesting a continuance of the hearing saying that there had been progress with Alliance Farm's negotiations with the Ostranders over the property disputed between Alliance Farm and the Ostranders. In reliance on that representation, the undersigned counsel agreed to a continuance.

2. The hearing was rescheduled to 5/27/2025. The undersigned counsel will be out of the country for a wedding on that date.

3. Additionally, it appears that Mr. Wentworth, intentionally or not, misled the

undersigned counsel about the reasons for the continuance. Mr. Etter obviously did not agree to be unopposed to a continuance so that Alliance Farm would have the opportunity to challenge a key right and interest of AEP while it is effectively defenseless. However, on 4/28/2025, the same day that Debtors filed their motion for continuance, Alliance Farm filed a motion to expunge a lis pendens on the Honea Egypt property in dispute. That lis pendens was partially filed based on claims which were asserted by Dustin Etter derivatively on behalf of AEP. However, it appears that Mr. Etter and his counsel are no longer able to defend those claims due to AEP's bankruptcy filing. See *UBS Fin. Servs. v. Est. of Serrano (In re Fin. Oversight & Mgmt. Bd. for P.R.)*, 102 F.4th 527, 534 (1st Cir. 2024) ("When a cause of action belongs to the bankruptcy estate, the trustee has the exclusive right to assert it, and all other parties are precluded from bringing derivative or general claims to vindicate harm to the estate."). The motion to expunge has been set for submission in state court on 5/23/2025. Based on the current state of multi-party settlement discussions, it appears likely that if Alliance Farm's motion to expunge is granted, AEP will at most get only \$1,000,000 from the Honea Egypt property sale while if Alliance Farm's motion is denied AEP could get \$1,300,000 to \$1,500,000 from the sale. Despite repeated pleas to current counsel for Debtor AEP, who is fully aware of the \$300,000 to \$500,000 loss that AEP may face if its interests are not defended in the state court setting sought by Alliance Farm currently scheduled for 5/23, Debtor AEP's counsel appears wholly unwilling to defend AEP's interests. This does not appear to be explainable by anything other than conflicts of interest in jointly representing Alliance Farm and in being paid by Jerod Furr, who potentially stand to gain \$300,000 to \$500,000 at the expense of AEP if AEP is without effective counsel between now and 5/23.

PRAYER

Dustin Etter requests and prays that this Motion to Reschedule be granted and for such other and further relief to which Dustin Etter may be justly entitled.

Respectfully submitted,

IRELAN McDANIEL, PLLC

By: /s/ Noah Meek

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ATTORNEYS FOR DUSTIN ETTER

CERTIFICATE OF SERVICE

This is to certify that on April 30, 2025, a true and correct copy of this instrument was served upon all parties **VIA the Court's CM/ECF System** in compliance with the Federal Rules of Bankruptcy Procedure.

/s/ Noah Meek

Noah Meek